

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARK INESTI,

Petitioner,

-against-

PEOPLE OF THE STATE OF NEW YORK,

Respondent.

20-CV-3988 (CM)

TRANSFER ORDER

COLLEEN McMAHON, Chief United States District Judge:

Petitioner, currently incarcerated at Clinton Correctional Facility, brings this *pro se* petition for a writ of *habeas corpus* under 28 U.S.C. § 2254 challenging the constitutionality of his 1996 conviction in the New York Supreme Court, Kings County.¹ Because Petitioner challenges a conviction and sentence from Kings County, which is located in the Eastern District of New York, this action is transferred under Local Rule 83.3 to the United States District Court for the Eastern District of New York.

The Clerk of Court is directed to mail a copy of this order to Petitioner and note service on the docket. The Clerk of Court is further directed to transfer this action to the United States District Court for the Eastern District of New York. Whether Petitioner should be permitted to proceed further without payment of fees is a determination to be made by the transferee court. This order closes the case in this Court.

Because Petitioner has not at this time made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue under 28 U.S.C. § 2253.

¹ It appears that Petitioner is currently incarcerated pursuant to his February 25, 2010 New York County conviction. *See New York v. Inesti*, 95 A.D.3d 690 (1st Dep't), *appeal denied*, 19 N.Y.3d 1026 (2012). Petitioner previously brought a petition for a writ of *habeas corpus* under 28 U.S.C. § 2254 challenging that New York County conviction. *See Inesti v. People of the State of NY*, No. 13-CV-6351 (WHP) (S.D.N.Y. May 19, 2014).

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: May 27, 2020
New York, New York

A handwritten signature in black ink, appearing to read "Colleen McMahon", is written over a horizontal line.

COLLEEN McMAHON
Chief United States District Judge